

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

CASE NO. 18-23066 (rdd)

TIMOTHY DWIGHT AND  
SUSANNE M. DWIGHT

CHAPTER 13

DEBTORS.

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**ORDER TO SHOW CAUSE DIRECTING CREDITORS SELENE AND RUSHMORE TO  
APPEAR AT ADJOURNED LOSS MITIGATION STATUS CONFERENCE**

The above debtors (the “Debtors”) filed for relief under Chapter 13 of the United States Bankruptcy Code on July 12, 2018. On August 27, 2018, the Debtors filed a request to engage in loss mitigation with Selene Finance LP (“Selene”) under the procedures established by the U.S. Bankruptcy Court for the Southern District of New York, pursuant to the Administrative Order signed by the Honorable Stuart M. Bernstein, Chief Judge, on December 18, 2008 and General Orders M-413 and M-451 (“Loss Mitigation”). On September 14, 2018, the Court entered an Order directing Loss Mitigation and subjecting the parties to the deadlines within (the “Loss Mitigation Order”). On December 12, 2018, at the regularly scheduled Loss Mitigation status conference pursuant to the Loss Mitigation Order, Debtor’s counsel appeared; however, no representative of Selene appeared. At the conference, Debtor’s counsel advised that Selene had denied the Debtors a “Streamline Modification” but had never requested the submission of documents by the Debtors for a Loss Mitigation review, having not filed a Creditor Affidavit, and had not disclosed whether any loss mitigation options were available in addition to a “Streamline Modification.” The Debtors’ counsel also reported that counsel had received a servicing transfer letter from Selene stating that as of November 9, 2018 the applicable loan was transferred to Rushmore Loan Management Services, LLC (“Rushmore;” with Selene, the “Creditors”), and that on December 5, 2018, his office contacted counsel that

often represents Rushmore in Loss Mitigation, who reported back that the firm had not been retained by Rushmore in this instance. It does not appear that Selene has informed Rushmore of the Loss Mitigation Order or the status of this Loss Mitigation. Essentially, then, Loss Mitigation is at a standstill in this case.

Accordingly, good and sufficient cause appearing, it is hereby

ORDERED, that the Creditors comply with the directives of the Loss Mitigation Order; and it is further

ORDERED, that unless agreed by the Debtors and the Creditors in the light of good faith efforts by the Creditors to comply with the Loss Mitigation Order, a representative of each of the Creditors and counsel shall appear at the adjourned Loss Mitigation status conference in this matter, which shall be held at the United States Bankruptcy Court for the Southern District of New York, 300 Quarropas St., White Plains, New York 10601 on February 27, 2019 at 10:00 a.m.; and it is further

ORDERED, that the Creditors' failure to comply with this Order may result in the imposition of sanctions, including the Debtors' costs and expenses, including reasonable attorneys' fees for attending the adjourned status conference and attempting to ensure compliance with the Loss Mitigation Order; and it is further

ORDERED, that the Debtors shall cause a copy of this Order to be served on the Creditors on or before January 8, 2019.

Dated: White Plains, New York  
January 3, 2019

/s/ Robert D. Drain  
United States Bankruptcy Judge